

Department of Veterans Affairs

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a period of time that does not exceed current community and/or accreditation standards, within which time an appropriate licensed health care professional shall again be consulted to determine if continuance of such restraint or seclusion is required. Restraint or seclusion may not be used as a punishment, for the convenience of staff, or as a substitute for treatment programs.

(2) While in restraint or seclusion, the patient must be seen within appropriate timeframes in compliance with current community and/or accreditation standards:

(i) By an appropriate health care professional who will monitor and chart the patient's physical and mental condition; and

(ii) By other ward personnel as frequently as is reasonable under existing circumstances.

(3) Each patient in restraint or seclusion shall have bathroom privileges according to his or her needs.

(4) Each patient in restraint or seclusion shall have the opportunity to bathe at least every twenty-four (24) hours.

(5) Each patient in restraint or seclusion shall be provided nutrition and fluid appropriately.

(e) *Medication.* Patients have a right to be free from unnecessary or excessive medication. Except in an emergency, medication will be administered only on a written order of an appropriate health care professional in that patient's medical record. The written order may be entered on the basis of telephonic authority received from an appropriate health care professional, but in such event, the written order must be countersigned by an appropriate health care professional within 24 hours of the ordering of the medication. An appropriate health care professional will be responsible for all medication given or administered to a patient. A review by an appropriate health care professional of the drug regimen of each inpatient shall take place at least every thirty (30) days. It is recognized that administration of certain medications will be reviewed more frequently. Medication shall not be used as punishment, for the convenience of the staff, or in quantities

which interfere with the patient's treatment program.

(f) *Confidentiality.* Information gained by staff from the patient or the patient's medical record will be kept confidential and will not be disclosed except in accordance with applicable law.

(g) *Patient grievances.* Each patient has the right to present grievances with respect to perceived infringement of the rights described in this section or concerning any other matter on behalf of himself, herself or others, to staff members at the facility in which the patient is receiving care, other Department of Veterans Affairs officials, government officials, members of Congress or any other person without fear or reprisal.

(h) *Notice of patient's rights.* Upon the admission of any patient, the patient or his/her representative shall be informed of the rights described in this section, shall be given a copy of a statement of those rights and shall be informed of the fact that the statement of rights is posted at each nursing station. All staff members assigned to work with patients will be given a copy of the statement of rights and these rights will be discussed with them by their immediate supervisor.

(i) *Other rights.* The rights described in this section are in addition to and not in derogation of any statutory, constitutional or other legal rights.

(Authority: 38 U.S.C. 501, 1721)

[47 FR 55486, Dec. 10, 1982. Redesignated at 61 FR 21965, May 13, 1996, as amended at 70 FR 67094, Nov. 4, 2005]

TENTATIVE ELIGIBILITY DETERMINATIONS

§ 17.34 Tentative eligibility determinations.

Subject to the provisions of §§ 17.36 through 17.38, when an application for hospital care or other medical services, except outpatient dental care, has been filed which requires an adjudication as to service connection or a determination as to any other eligibility prerequisite which cannot immediately be established, the service (including transportation) may be authorized without further delay if it is determined that eligibility for care probably

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will be established. Tentative eligibility determinations under this section, however, will only be made if:

(a) *In emergencies.* The applicant needs hospital care or other medical services in emergency circumstances, or

(b) *For persons recently discharged from service.* The application was filed within 6 months after date of honorable discharge from a period of not less than 6 months of active duty.

[35 FR 6586, Apr. 24, 1970. Redesignated at 61 FR 21965, May 13, 1996, as amended at 64 FR 54212, Oct. 6, 1999]

HOSPITAL OR NURSING HOME CARE AND MEDICAL SERVICES IN FOREIGN COUNTRIES

§ 17.35 Hospital care and medical services in foreign countries.

The Secretary may furnish hospital care and medical services to any veteran sojourning or residing outside the United States, without regard to the veteran's citizenship:

(a) If necessary for treatment of a service-connected disability, or any disability associated with and held to be aggravating a service-connected disability;

(b) If the care is furnished to a veteran participating in a rehabilitation program under 38 U.S.C. chapter 31 who requires care for the reasons enumerated in 38 CFR 17.48(j)(2).

(Authority: 38 U.S.C. 1724)

[55 FR 11370, Mar. 28, 1990. Redesignated at 61 FR 21965, May 13, 1996]

EFFECTIVE DATE NOTE: At 74 FR 30228, June 25, 2009, § 17.35(b) was amended by removing “38 CFR 17.48(j)(2)” and adding in its place “§ 17.47(i)(2)”, effective July 27, 2009.

ENROLLMENT PROVISIONS AND MEDICAL BENEFITS PACKAGE

§ 17.36 Enrollment—provision of hospital and outpatient care to veterans.

(a) *Enrollment requirement for veterans.*

(1) Except as otherwise provided in § 17.37, a veteran must be enrolled in the VA healthcare system as a condition for receiving the ‘medical benefits package’ set forth in § 17.38.

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NOTE TO PARAGRAPH (a)(1): A veteran may apply to be enrolled at any time. (See § 17.36(d)(1).)

(2) Except as provided in paragraph (a)(3) of this section, a veteran enrolled under this section and who, if required by law to do so, has agreed to make any applicable copayment is eligible for VA hospital and outpatient care as provided in the “medical benefits package” set forth in § 17.38.

NOTE TO PARAGRAPH (a)(2): A veteran's enrollment status will be recognized throughout the United States.

(3) A veteran enrolled based on having a disorder associated with exposure to a toxic substance or radiation, for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, or any illness associated with service in combat in a war after the Gulf War or during a period of hostility after November 11, 1998, as provided in 38 U.S.C. 1710(e), is eligible for VA care provided in the “medical benefits package” set forth in § 17.38 for the disorder.

(b) *Categories of veterans eligible to be enrolled.* The Secretary will determine which categories of veterans are eligible to be enrolled based on the following order of priority:

(1) Veterans with a singular or combined rating of 50 percent or greater based on one or more service-connected disabilities or unemployability.

(2) Veterans with a singular or combined rating of 30 percent or 40 percent based on one or more service-connected disabilities.

(3) Veterans who are former prisoners of war; veterans awarded the Purple Heart; veterans with a singular or combined rating of 10 percent or 20 percent based on one or more service-connected disabilities; veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty; veterans who receive disability compensation under 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for that care is provided for in the judgment or settlement described in 38 U.S.C. 1151;